



## Seattle Office for Civil Rights

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### Summary of 2012-13 PSST Enforcement and 2014 PSST Enforcement Strategies

During initial implementation of Seattle's Paid Sick and Safe Time (PSST) Ordinance, the Seattle Office for Civil Rights (SOCR) focused on resolving individual employees' grievances and ensuring employer compliance. From 9/1/12 through 12/31/13, SOCR sent advisory letters to employers that facilitated informal resolutions of complaints. Employees could elect to file a charge if the advisory letter process did not resolve their problem. During this 16-month period, SOCR sent 141 advisory letters (closed 138) and filed 6 charges.

In January 2014, SOCR revised its enforcement strategies to give employees the choice of filing a formal charge or using the advisory letter process. As a result, in 2014 SOCR filed more charges and sent fewer advisory letters.

#### PSST Enforcement (Sept 1, 2012 – October 15, 2014)

Enforcement Actions	Sept 1-Dec 31, 2012	2013	2014	Total
Advisory Letter Sent	38	103	45	186
Advisory Letter Closed <sup>1</sup>	20	113	49	182
Individual Charges Filed	0	6	38	44
Individual Charges Closed <sup>1</sup>	0	0	22	22
Director Charges Filed <sup>2</sup>	0	0	4	4
Director Charges Closed	0	0	3	3
Outcomes				
- Formal Settlements	0	3	16	16
- Reasonable Cause <sup>3</sup>	0	0	5	5
- Proposed Reasonable Cause <sup>3</sup>	0	0	2	2
Amount Recovered	0	\$5,835	\$37,369.68	\$43,204.68

<sup>1</sup> Annual totals for advisory letters and charges may show variations because cases can remain open from one year to the next.

<sup>2</sup> A Director's Charge is a charge filed by the Department Director, based on evidence of an alleged violation. A Director's Charge does not rely solely on allegations from an individual.

<sup>3</sup> SOCR can issue a "reasonable cause" or a "no reasonable cause" finding. "Reasonable cause" means that enough evidence was found to determine that a violation took place. "No reasonable cause" means there is not enough evidence to support the claim under the law. Following the City Auditor's recommendation, SOCR has instituted a "proposed reasonable cause" finding that gives parties the chance to comment on the finding and/or resolve the violation prior to SOCR's issuing a final reasonable cause finding.

### Highlights from 2014

- **More charges filed; fewer advisory letters sent:** In 2014, SOCR sent 45 advisory letters and filed 38 charges – a significant change from 103 advisory letters and six charges in 2012 and 2013.
- **Company-wide investigations:** SOCR now files a Director's Charge authorizing a company-wide investigation whenever SOCR has reason to believe that a PSST violation affects the entire workforce. In 2014, SOCR filed the first labor standards Director's Charges against four businesses and closed three of these cases with settlements.
- **Confidentiality.** In a Director's Charge, employees maintain anonymity (to the extent possible) while SOCR conducts a full investigation.
- **Increase in monetary recovery:** In 2014, employees received \$37,369 in settlements, compared to \$5,835 collected in 2013 (total to date \$43,204.68).
- **Settlement terms include retroactive provisions and require full compliance:** In 2014, SOCR settled 16 complaints, compared to three settlements in 2013. Settlement must include the following terms to demonstrate full compliance:
  - Retroactive awarding of PSST hours for the period of noncompliance, up to 2 years.
  - Payment of back wages for unpaid PSST absences for the period of noncompliance, up to 2 years.
  - PSST policies written and disseminated to all employees.
  - Notice and explanation of PSST rights to employees.
  - Notification to employees of their PSST available balance each time wages are paid.
  - Monitored compliance for a specified time period.
  - Any other information that will demonstrate the employer's compliance with PSST requirements.
  - Payment of civil penalties for violations of the notice and posting requirements.

### Future enforcement strategies

SOCR is in the process of adopting the following enforcement strategies to strengthen employers' PSST compliance and accountability:

- Filing more Director's Charges and limiting use of advisory letters. Future advisory letter processes will require employers to show clear evidence of compliance.
- Assessing whether individual complaints indicate company-wide violations.
- Imposing civil penalties for all willful violations of the ordinance.
- Requiring employers to pay for PSST absences that employees "would have used" if the employer had been in compliance. SOCR will propose a rule to include a "3.7 day remedy" that replenishes employee accounts with accrued sick leave and pays for an average number of sick leave absences, similar to a remedy used by San Francisco's Office of Labor Standards Enforcement (OLSE).
- Conducting directed investigations (i.e. investigations initiated without a complaint).

### 2014 PSST Outreach Strategies

SOCR provides free training and technical assistance to employers: in 2014 our half-time business liaison helped over 500 employers (almost 2,500 since September 2012) with PSST implementation.